

Docket No.	Project Name	Brief Description of Suggested Amendment	Who Suggested Amendment	Staff Lead	Staff Recommendation
14-10B	KCC Title 17 Zoning	KCC Title 17: Zoning Amendments to 17.13 TDR and 17.98, Amendments	Staff	CDS	Approve

Kittitas County Community Development Services proposes amending portions of KCC Chapter 17.13 for consistency with Title 17 amendments adopted as part of the GMA compliance amendments in 2013 and other clarity amendments. Staff is recommending language changes for the following:

- Delete Ag-3 zoned properties from “sending sites” as this zone is now only located in LAMIRDS or UGAs.
- Delete KCC 17.13.030(1)(e), which appears to be a codification error and reference to “one-time split” in KCC 17.13.030(3).
- Amend KCC 17.13.080(6) to clarify the TDR exchange rate.

Amendments are also proposed for KCC Chapter 17.98, Amendments, to clarify that the requirement for compliance with KCC Chapter 17.13 is only for amendments that increase the residential density to a zoning classification that allows greater than 1 dwelling unit per acre [see KCC 17.13.030(1)(d)]. .

DRAFT – August 2014

Kittitas County Code Title 17 Zoning, amendment to Chapter 17.13 Transfer of Development Rights, is proposed as follows:

**Chapter 17.13
TRANSFER OF DEVELOPMENT RIGHTS**

Sections

- 17.13.010 Purpose.
- 17.13.020 TDR Sending Sites.
- 17.13.030 TDR Receiving Sites.
- 17.13.040 Calculations of Available Development Rights on Sending Sites.
- 17.13.050 Sending Site Development Limitations.
- 17.13.060 TDR Documentation of Restrictions.
- 17.13.070 TDR Sending Site Certification and TDR Committee Review Process.
- 17.13.080 TDR Transfer Process.
- 17.13.090 TDR Amenity Funding for Cities.
- 17.13.100 Condemned Lands.

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17.13.020 TDR Sending Sites.

Sending sites must contain a public benefit such that the preservation of that benefit by transferring residential development rights, in the form of density credits, to another site is in the public interest. A sending site will be presumed to contain a public benefit if it meets either criteria 1, 2, 3 or 4, as stated below:

1. Farm and Agricultural Land (must satisfy criteria 1.a. thru 1.e.)
 - a. Is land in the Commercial Agriculture, Ag-20, Ag-5, ~~A-3~~, Forest & Range, or R-5 zoning;

- b. Is a minimum of twenty (20) acres in size;
 - c. Is located within the boundary of the Agricultural Production District area shown on the Kittitas County zoning map;
 - d. Includes proof of commercial agricultural income as required for Current Use Agricultural taxation under [RCW 84.34](#); and
 - e. Has value above that associated with resource value ("higher and better use").
2. Forest Land (must satisfy criteria 2.a. thru 2.e.)
 - a. Is land in Commercial Forest, Forest & Range, or R-5 zoning;
 - b. Is a minimum of twenty (20) acres in size;
 - c. Is not publicly owned;
 - d. Has a Timber Management Plan that is in compliance with Washington State Department of Revenue's guidelines dated June 2010 or as thereafter amended; and
 - e. Has value above that associated with resource value ("higher and better use").
 3. Frequently Flooded Area as defined in KCC 17A.02.140.
 4. Lands designated as eligible sending sites in a TDR agreement with a city.
 5. Lands must be located within Kittitas County.
 6. If a sending site consists of more than one lot, the lots must be contiguous. For purposes of this chapter, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed.
 7. Development rights acquired from eligible sending sites may be converted to density credits which may be transferred to eligible receiving sites through the TDR transfer process. After completion of the conveyance of a sending site's development rights, the property shall be maintained in a condition that is consistent with the criteria in this chapter under which the sending site was qualified by means of a TDR conservation easement.
 8. Publicly owned property shall not be eligible to become a sending site.

17.13.030 TDR Receiving Sites.

1. Eligible receiving sites shall be those sites as listed below and shall be located within Kittitas County. For eligible receiving sites, the transfer and exchange of TDR density credits shall occur consistent with [KCC 17.13.080](#):
 - a. Cities where new growth is or will be encouraged under the Growth Management Act and Countywide Planning Policies.
 - b. All city receiving sites shall be designated pursuant to an agreement with the County.
 - c. Sites within Urban Growth Areas, with a density greater than six (6) dwelling units (du) per acre, where new growth is or will be encouraged under the Growth Management Act and Countywide Planning Policies.
 - d. Unincorporated sites outside of Urban Growth Areas for which an amendment to the official zoning map or rezone to a zoning classification allowing greater than one (1) dwelling unit (du) per twenty (20) acres.
 - e. ~~Unincorporated sites outside of Urban Growth Areas for which an associated map amendment to the Comprehensive Plan has been requested pursuant to Kittitas County Code in conjunction with a rezone under (1)(4) of this section.~~
 - f. Unincorporated sites for which a Cluster Plat has been requested pursuant to KCC Chapter [16.09](#) and KCC Chapter [17.30](#), [Rural Recreation](#).
 - g. LAMIRDs.
 - h. Unincorporated sites for which a Planned Unit Development (PUD) designation amendment to the zoning map has been requested pursuant to Kittitas County Code, when such amendment results in an increase in density.
2. The provisions of this chapter shall only apply to receiving site development proposals that vest after the effective date of this chapter. For purposes of vesting and this chapter, site development

proposals include both legislative and quasi-judicial land use decisions associated with the eligible receiving sites outlined in KCC 17.13.030.1.

3. ~~The provisions of this chapter shall not apply to land divisions completed in accordance with the County "one-time split" provision pursuant to KCC 17.29.040.~~ (Ord. 2013-001, 2013; Ord. 2011-005, 2011 ; Ord. 2010-006, 2010 ; Ord. 2009-25, 2009)

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17.13.080 TDR Transfer Process.

1. TDR transaction transferring density credits from within unincorporated Kittitas County to within an incorporated city shall be reviewed and transferred using the city's development application review process. The transfer shall be subject to a TDR agreement between Kittitas County and the city. The County and any city located within the County may also establish by agreement general procedures for facilitating and completing TDR transactions transferring density credits from unincorporated Kittitas County to any such city.
2. Density credits shall be required for approved amendments to the Comprehensive Plan associated with receiving sites detailed in KCC 17.13.030 1.a thru 1.h. Applications may be submitted without the purchase of density credits, but no final plat approval or other permits, if no land division is involved, for development associated with a TDR requirement shall be issued until the density credit requirement is satisfied.
 - a. The tender of density credits is not a precondition for any amendment to the Comprehensive Plan, Zoning Map or proposed development to be approved. The density credits are required before the County issues final plat approval or permits, if no land division is involved, for any development of the additional units in the Comprehensive Plan amendment. The developer must submit the density credits when applying for the permit.
 - b. The ordinance granting each Comprehensive Plan Amendment shall condition the approval upon the applicant's compliance with the requirement of development credits.
3. The required density credits may be acquired by:
 - a. Purchasing density credits from certified sending sites;
 - b. Transferring density credits from certified sending sites owned by a receiving site owner; or
 - c. Purchasing previously purchased, unexecuted TDR credits from another buyer.
4. All development using density credits must be in accordance with all other applicable laws and regulations.
5. The County may waive or modify the density credit requirements if it is determined by the Prosecuting Attorney that strict application of the requirement in a specific situation would result in an unconstitutional taking of property or a violation of the property owner's right to substantive due process. Modifications made under this provision shall be no greater than necessary to avoid the taking or substantive due process violation. The County shall provide written documentation supporting each application of the provision.
6. For receiving sites listed in KCC 17.13.030, the exchange rate shall be as follows:

Receiving Sites	Exchange Rate
Urban Growth Areas	1 TDR Credit = 2 Additional Units
Planned Unit Developments	1 TDR Credit Per 20 Acres of Receiving Site Area
Rural Rezones	1 TDR Credit Per 20 Acres of Receiving Site Area

~~Example: Owner A wishes to rezone 80 acres of land currently zoned Forest and Range to Rural—5 (receiving site). Owner B owns 640 acres of land zoned Commercial Forest (sending site). Owner B's property is eligible for up to eight TDR credits (640 ac. / 80 ac. = 8 or the total sending site acreage divided by the base density of underlying zoning). Owner A would be required to obtain four TDR credits from Owner B (4 x 20 ac. = 80 ac. or 1 TDR credit per 20 ac. of receiving site area) to be considered from a twenty (20) acre zone to a five (5) acre zone. Owner B could then choose to retain the remaining four TDR credits or sell them to additional receiving sites.~~

7. Purchase agreements between parties for TDRs does not guarantee approval of any land use action.

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Chapter 17.98 AMENDMENTS

Sections

17.98.010 Proposal.

17.98.020 Petitions.

* Prior history: Ord. 2.

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17.98.020 Petitions.

1. A petition to amend this title shall be filed with the administrator on forms prescribed by the Director. If the petition is for an amendment to the zoning map it shall include a legal description and location of the property to be reclassified.
2. A petition asking for a change from one zone to another must be signed by not less than seventy-five percent (75%) of the property owners and representing at least seventy-five percent (75%) of the assessed valuation of the area proposed for the zone reclassification.
3. Any member of the general public has the right to petition the Board or planning commission for consideration of text amendments or change from one zone to another for a general area. Such consideration is not mandatory.
4. Petitions shall be processed pursuant to Title 15A of this code, Project permit application process.
5. A petition requesting a change on the zoning map shall be processed consistently with the Annual Comprehensive Plan Docketing Process, pursuant to KCC Title 15B, unless the petition is consistent with the Comprehensive Plan land use designation of the property and accompanied by a specific development application.
6. A petition requesting a change on the zoning map from one zone to another must demonstrate that the following criteria are met:
 - a. The proposed amendment is compatible with the comprehensive plan; and
 - b. The proposed amendment bears a substantial relation to the public health, safety or welfare; and
 - c. The proposed amendment has merit and value for Kittitas County or a sub-area of the county; and
 - d. The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property; and
 - e. The subject property is suitable for development in general conformance with zoning standards for the proposed zone; and

- f. The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property; and
- g. The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties; and
- h. The proposed amendment is in full compliance with KCC Chapter 17.13, Transfer of Development Rights, if the proposed amendment allows greater than one (1) dwelling unit (du) per twenty (20) acres or proposes to decrease the dwelling units (du) allowed in the zone classification. (Ord. 2013-001, 2013; Ord. 2010-006, 2010; Ord. 2007-22, 2007; Ord. 96-19 (part), 1996; Ord. 96-1, 1996; Res. 83-10, 1983)